



**DEPARTMENT OF HEALTH
AND HUMAN SERVICES
BUREAU OF HEALTH
DIVISION OF HEALTH ENGINEERING**

**RULES RELATING TO THE ADMINISTRATION AND
ENFORCEMENT OF ESTABLISHMENTS LICENSED BY
THE EATING AND LODGING PROGRAM**

10-144 CMR 201

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APPROPRIATION 010-10A-2450-012

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EFFECTIVE DATE: August 1, 2004

RULES RELATING TO THE ADMINISTRATION AND ENFORCEMENT OF ESTABLISHMENTS LICENSED BY THE EATING AND LODGING PROGRAM

10-144 CMR 201

SECTION 1 GENERAL PROVISIONS

1.1 PURPOSE

These rules shall be liberally construed and applied to promote their underlying purpose of protecting the public health.

1.2 DEFINITIONS

1.2.A. APPROVED shall mean acceptable to the Department based on its determination as to conformance with appropriate standards and good public health practice.

1.2.B. BED AND BREAKFAST is a unique Food Establishment where the general public can stay overnight and are provided with a "limited menu," serving only a breakfast meal. This meal can be either a full or continental breakfast. Unlike other Food Establishments, the meal is prepared in the private home. Licenses are required for anyone renting one or more room(s) and serving food.

1.2.C. BOTTLE CLUB means any place operating, on a regular basis, for social activities in which members or guests provide their own alcoholic beverages, and where no alcoholic beverages are sold on the premises.

1.2.D. CATERING means preparing food for pre-arranged events, and a license is required.

1.2.D.a. CATERING ESTABLISHMENTS means any kitchen, commissary or similar place in which food or drink is prepared for sale or service elsewhere or for food service on the premises during special catered events. For clarification, catering establishments are licensed to prepare food at a specific location, yet the food is prepared for a pre-arranged event at another location and the food may be served anywhere the event is held.

1.2.E. CAMPING is an activity where people provide their own shelter of a temporary form including but not limited to tents, recreational vehicle (RV) campers, or sleeping bags.

1.2.E.a CAMPGROUND means a parcel of land where camping takes place and contains 5 or more sites in any combination. Specific requirements are contained in Rules Relating to Campgrounds (10-144 CMR 205). At any such campground the sites are intended for temporary

occupancy for recreational purposes only, and not for permanent year-round residency. A campground excludes recreational camps as defined herein.

1.2.F. CERTIFIED FOOD PROTECTION MANAGER means a person that is an on-site employee designated by the management of that establishment with the authority to implement food protection measures, who meets the certification requirements of section 2.1.

1.2.G. COMMISSARY means a catering establishment, restaurant, or any other place in which food, containers or supplies are kept, handled, prepared, packaged or stored.

1.2.H. COMMISSIONER means the Commissioner of the Department of Human Services.

1.2.I. CORROSION-RESISTANT MATERIALS means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other normal uses.

1.2.J. COTTAGE means a single structure where sleeping accommodations are furnished to the public as a business for day, week or month, but not for more than the entire summer season.

1.2.J. CRITICAL ITEM means a provision of these rules that, if in noncompliance, is more likely than other violations to contribute to contamination, illness, or environmental health hazard. Critical items relate directly to factors which lead to illness and must receive immediate attention and be corrected as soon as possible. Operators of establishments with critical violations shall notify the Department when corrections have been made. Critical items may include but are not limited to the following:

1.2.J.1. Food from an unapproved or unknown source, or food which is or may be adulterated, contaminated, or otherwise unfit for human consumption is found in a food service establishment;

1.2.J.2. Potentially hazardous food that is held longer than necessary for preparation or service at a temperature between 41°F and 140°F;

1.2.J.3. Insufficient facilities to maintain product temperature;

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1.2.J.4. Re-service of potentially hazardous food or unwrapped food that has been previously served to customers;

1.2.J.5. A person infected with a communicable disease that can be transmitted by food is working as a food handler in a food service establishment;

1.2.J.6. A person not practicing strict standards of cleanliness and personal hygiene which may result in the transmission of illness through food, is employed in a food service establishment;

1.2.J.7. Equipment, utensils and, food-contact surfaces are not cleaned and sanitized effectively and may contaminate food during preparation, storage or service;

1.2.J.8. Sewage or liquid waste is not disposed of in an approved and sanitary manner, or the sewage or liquid waste may contaminate any food, areas used to store or prepare food, or any areas frequented by customers or employees [Regulated under the Maine Subsurface Wastewater Disposal Rules, 10 CMR 241, or the Maine Internal Plumbing Code, 10 CMR 238];

1.2.J.9. Toilets and facilities for washing hands are not provided, properly installed or designed, accessible or convenient;

1.2.J.10. The supply of water is not from an approved source or is not under pressure and the food service establishment does not use single service articles and/or bottled water from an approved source [Regulated under Rules Relating to Drinking Water, 10 CMR 231];

1.2.J.11. A defect exists in the system supplying potable water that may result in the contamination of the water;

1.2.J.12 Plumbing not installed by a licensed master plumber, and/or without the proper permits and/or not inspected by the Local Plumbing Inspector shall be considered defective.

1.2.J.13. Insects, rodents or other animals are present on the premises in such numbers as to increase the risk of communicable disease being transmitted to the public.

1.2.J.14. Toxic items are improperly labeled, stored or used; or

1.2.J.15. Any other violation of these regulations which has the potential to seriously affect the public health.

1.2.K. DELEGATED COMMUNITY means a city, town, or plantation in Maine that has applied for, and received authorization from the Department to conduct eating place inspections pursuant to 22 M.R.S.A. § 2499.

1.2.L. DEMERIT means a number indicating the seriousness of a violation from a public health and safety standpoint. The most serious violations are 5-point demerits and the least serious are 1-point demerits, based on the U.S. Food and Drug Administration 1999 Model Food Code.

1.2.M. DEPARTMENT means the Department of Health and Human Services.

1.2.N. DORMITORY means a room in any establishment used for sleeping purposes by four (4) or more unrelated persons.

1.2.O. EASILY CLEANABLE means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

1.2.P. EATING AND LODGING PLACES OR LODGING PLACES means every building or structure or any part thereof kept, used as, maintained as, advertised as or held out to the public to be, a place where eating and sleeping accommodations or sleeping accommodations are furnished to the public as a business such as hotels, motels, guest homes, cottages, and bed and breakfast.

1.2.Q. EATING ESTABLISHMENT means any place where food or drink is prepared and served, or served to the public for consumption on the premises, or catering establishments or establishments dispensing food from vending machines, or establishment preparing foods for vending machines dispensing foods other than in original sealed packages, such as hotels, motels, boarding homes, restaurants, mobile eating places, coffee shops, cafeterias, short order cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, bars, cocktail lounges, night clubs, roadside stands, industrial feeding establishments, private or public institutions routinely serving foods, retail frozen dairy product establishments, airports, parks, theaters, vacation camps or any other catering or nonalcoholic drinking establishments or operations where food is prepared and served or served for consumption on the premises, or catering establishments where food is prepared, or where foods are prepared for vending machines dispensing food other than in original sealed packages.

1.2.R. EMPLOYEE means any person working in a regulated establishment, and shall include the proprietor or manager or any member of his family, as well as any other person employed in or about the regulated establishment.

1.2.S. EMPLOYER means the license holder or individual(s) having supervisory or management duties.

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1.2.T. EQUIPMENT means stoves, ovens, ranges, hoods, slicers, meat blocks, tables, counters, mixers, refrigerators, sinks, dishwashing machines, steam tables, and similar items, autoclave, forceps, epilators, safety razor, other than utensils, used in the operation of an establishment licensed by the Department under these rules.

1.2.U. FOOD means any raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

1.2.V. FOODBORNE DISEASE OUTBREAK means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

1.2.W. FOOD CONTACT SURFACE means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.

1.2.X. FOOD HANDLER means any person employed or working in a food service establishment who handles food and/or drink during preparation or serving, or who comes in contact with any eating, drinking or cooking utensils, or who works in a room or rooms in which food or drink is prepared, served, or stored.

1.2.Y. FOOD SERVICE ESTABLISHMENT means an establishment licensed by the Department under these rules and serves food.

1.2.AA. HAZARD ANALYSIS CRITICAL CONTROL POINT (HACCP) means a systematic evaluation of food preparation procedures to identify opportunities for bacterial contamination and growth. From this perspective a public health sanitarian may then determine those circumstances which could result in the development of foodborne diseases.

1.2.BB. HERMETICALLY SEALED CONTAINER means a container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

1.2.CC. IMMINENT HEALTH HAZARD includes but is not limited to (1) an extended loss of water supply, (2) an extended power outage, (3) flood water or sewer back-up into the establishment, (4) three or more repeat critical violations, (5) 15 or more single demerit violations or (6) any other violation(s) that has/have the potential to pose an imminent threat to public health. Failure to include other violations in this definition shall not be construed as a determination that other violations may not, in light of the circumstances, be found to pose an imminent health hazard.

1.2.DD. INSPECTION means an official examination or review of an establishment licensed by the Division of Health Engineering, Eating and Lodging Program. The types of inspection conducted include: 1) Pre-operational, 2) Routine Compliance, 3) Follow-up, and 4) Complaint.

1.2.EE. KITCHENWARE shall mean all multi-use utensils, other than tableware, used in the storage, preparation, conveying or serving of food.

1.2.FF. LAW includes Federal, State, and local statutes, ordinances, and regulations.

1.2.GG. LODGING PLACE means every building or structure, or any part thereof, used, maintained, advertised or held out to the public as a place where sleeping accommodations are furnished to the public for business purposes. The term includes, but not by way of limitation, hotels, motels, guest homes and cottages, wherein the owner customarily maintains the sleeping accommodations. For purposes of these rules, lodging place does not include rooming houses or tenancies-at-will.

1.2.HH. MANAGER means any person, 18 years or older, who operates or is responsible for operating an establishment.

1.2.II. MOBILE EATING PLACE shall mean a mobile vehicle designed and constructed to transport, prepare, sell or serve food at a number of sites and shall be capable of being moved from its serving site at any time. For purposes of these rules, a mobile unit is interpreted to mean that it can be readily moved in order to be cleaned frequently and on a regular basis.

1.2.JJ. PACKAGED means bottled, canned, cartoned, or securely wrapped.

1.2.KK. PERSON includes any individual, partnership, corporation, association, or other legal entity.

1.2.LL. PERSON IN CHARGE means the individual present in a food service establishment who is the apparent supervisor of the establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

1.2.MM. POTENTIALLY HAZARDOUS FOODS means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or their ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods which

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have a pH level of 4.6 or below or a water activity (a_w) value of 0.85 or less.

1.2.NN. PRIVATE FACILITY is a facility funded by an individual, partnership or corporation, and which is not a public facility.

1.2.OO. PROPRIETOR shall mean any person, 18 years or older, corporation, firm, organization, municipality or partnership who operates or is responsible for operating an eating establishment or eating and lodging place.

1.2.PP. PUBLIC FACILITY is any facility funded in whole or part by municipal, state or federal funds. These facilities shall include but not be limited to public schools, state controlled universities, mental and correctional facilities, etc.

1.2.QQ. RECREATIONAL CAMP means a day camp, boys and girls camp, family, hunting, fishing, and similar camps. For purposes of this definition, recreational camps generally do not include summer sports programs overseen by employees or volunteers of municipalities and educational institutions when the activities generally take place at the municipal or institution property and buildings.

1.2.RR. RECREATIONAL VEHICLE (RV) PARK means a campground that permits the use of RVs where an RV consists of a recreational shell mounted upon a wheel mounted vehicle permanently, or towed behind a motorized vehicle. An RV park is designed for seasonal sites or temporary occupancy and not for permanent residency.

1.2.SS. RECONSTITUTED means dehydrated food products recombined with water or other liquids.

1.2.TT. REGULATED ESTABLISHMENT means an establishment that is required to be licensed and/or inspected for compliance by the Department. Regulated establishments shall display the license at their place of sale or service.

1.2.UU. REPEAT VIOLATION means a violation determined and recorded during a previous inspection.

1.2.VV. SAFE TEMPERATURES, as applied to potentially hazardous food, means temperatures of 41° F or below (for cold food) and 140° F or above (for hot foods) unless otherwise specified in these regulations, and 0°F or below for frozen foods.

1.2.WW. SALAD BAR OPERATION means an area or areas where cold salads and/or salad ingredients are prepared, stored and displayed for consumer self-service.

1.2.XX. SALAD BAR UNIT means a refrigerated unit or properly drained ice-filled unit where food is displayed for consumer self-service.

1.2.YY. SANITARIAN means a person whose education and experience in the biological and sanitary sciences qualify him/her to engage in the promotion and protection of the public health. A sanitarian applies technical knowledge to solve problems of a sanitary nature and develops methods and carries out procedures for the control of these factors of man's environment which affect health, safety and the well-being of others.

1.2.ZZ. SANITIZATION means effective bactericidal treatment by a process that provides enough accumulative heat or concentrations of chemicals for a time sufficient to reduce the bacterial count including pathogens, to a safe level on food contact surfaces of utensils and equipment.

1.2.AAA. SCHOOL FEEDING (SATELLITE) means a school facility that receives food items, prepared at a separate location, for final assembly, rethermalization (reheating) and service.

1.2.BBB. SEALED shall mean free of cracks or other openings which permit the entry or passage of moisture, and bacterial, viral, or chemical contaminants.

1.2.CCC. SERVICING AREA means a designated location or locations equipped for cleaning, sanitizing or drying equipment, utensils and product modules.

1.2.DDD. SINGLE-SERVICE ARTICLES shall mean cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, placemats, napkins, doilies, wrapping materials, toothpicks and similar articles which are constructed wholly or in part from paper, paper board, molded pulp, foil, wood, plastic, synthetic, or other readily destructible materials, and which are designed by the manufacturers and generally used by the public as for one-time, one-person use and then discarded.

1.2.EEE. TABLEWARE shall mean all multi-use eating and drinking utensils, including flatware (knives, forks, spoons, dishware).

1.2.FFF. TEMPORARY FOOD SERVICE ESTABLISHMENT shall mean a food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration.

1.2.GGG. UTENSIL shall mean any tableware and kitchenware used in the storage, preparation, conveying, or serving of food.

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1.2.HHH. VENDING MACHINE shall mean any self-service device offered for public use which, upon insertion of a coin, coins or token or by other similar means, dispenses unit servings of food other than in original sealed packages without the necessity of replenishing the device between vending operations.

1.2.III. VENDING MACHINE ESTABLISHMENT means any establishment preparing foods for vending machines dispensing foods other than in original sealed packages.

1.2.JJJ. VIOLATION means a critical, non-critical, or routine item of non-compliance with any rule. A critical item means a provision of these rules that, if in noncompliance, is more likely than other violations to contribute to contamination, illness, or environmental health hazard.

1.2.KKK. WILDERNESS RECREATIONAL PARK means a recreational park containing only primitive sites and adhering to the rules of same.

1.2.LLL. YOUTH CAMP means a combination of program and facilities established for the primary purpose of providing an outdoor group living experience for children with social, recreational, spiritual, and educational objectives and operated and used for five or more consecutive days during one or more seasons of the year. Youth camps include day camps, residential camps and trip and travel camps. Rules Relating to Boys, Girls, Boys and Girls, Day Camps, and Primitive and Trip Camping provide specific information (10-144 CMR 208).

SECTION 2 CERTIFICATION OF PERSONNEL

2.1 CERTIFIED FOOD PROTECTION MANAGERS

2.1.A. The Department of Human Services recognizes that the storage, preparation and service of food for the public requires a certain minimal knowledge of sanitation principles and practices. A Certified Food Protection Manager should have or should acquire the training necessary to follow proper sanitary practices for the health risk associated with the specific eating establishment. Knowledge of these principles and practices can be demonstrated by becoming certified.

2.1.B. Each eating establishment should employ at least one Certified Food Protection Manager who is an on-site employee designated by the management of that establishment with the authority to implement food protection measures.

2.1.C. In the State of Maine, the following will be accepted as meeting the requirements for certification.

2.1.A.1. Having written proof of completion of specialized training in the preparation and serving of safe food, such

as the ServSafe[®] training courses from the National Restaurant Association Educational Foundation, or equivalent and receiving a passing grade on a competency test, approved by the National Conference for Food Protection (CFP). Such Certified Food Protection Manager Certification shall be renewed through re-training and re-testing every 5 years or as required by standards adopted by the Department.

2.1.A.2. When considering the certification of Food Protection Managers in low health risk establishments, such as those not preparing potentially hazardous foods, or for certain mobile eating establishments; and for certain medium risk establishments, the Department may establish testing procedures and other requirements to establish and determine acceptable credentials.

2.1.B. Establishments requiring two repeat inspections due to multiple critical violations may be required to employ additional Certified Food Protection Managers.

2.1.C. Nothing in these rules precludes the Department from requiring an eating establishment, as part of a compliance action, to hire on a less than full-time basis and outside, or third-party consultant who would provide recommendations a food safety consultant

SECTION 3 DELEGATION OF RESTAURANT INSPECTION DUTIES TO MUNICIPALITIES

3.1 Pursuant to 22 M.R.S.A. § 2499 the Department may delegate restaurant inspection duties to municipalities.

3.1.A. In delegated municipalities, the Department continues to be the licensing authority, and may issue a license to establishments on the basis of an inspection performed by an inspector who works for and is compensated by the municipality in which such establishment is located

3.1.B. The following conditions must be met:

3.1.B.1 The municipality holding or requesting to hold such delegation has adopted rules through an ordinance consistent with the Maine Food Code.

3.1.B.2. No municipally employed sanitarians shall make inspections under the provisions of this chapter unless certified as qualified by the Commissioner of Human Services. Such certification will be determined through formal and informal training and education, and other such criteria as the Department may determine.

3.1.B.3. For quality control purposes, the Department may from time to time inspect such municipally inspected establishments to ascertain that the intent of these statutes

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is being followed. Pursuant to Maine law, the municipalities may not charge the Department for performing such inspections.

3.1.B.4. The municipalities shall furnish to the Department, electronically, if possible, copies of its inspection reports relating to said inspections on a monthly basis.

3.1.B.5. The municipalities are responsible to ensure that all eating places within their jurisdiction apply for a State license. Failure of an establishment to operate without the necessary State license will result in the eating place being assessed an administrative fine as specified in these rules. Pursuant to 22 M.R.S.A. §2498, the Department retains its right to pursue other sanctions against non-licensed eating places including seeking injunctive relief to enjoin further violations.

3.1.B.6. When a license is issued on the basis of a municipal inspection as specified in this section, the requirement for payment of a license fee to the Department as set forth in section 4.1.D is waived pursuant to 22 M.R.S.A. § 2499. In lieu of the prescribed fee the licensee shall pay the Department a sum not to exceed the fee for delegated municipalities indicated in Table 1, Fee Schedule.

3.1.B.7. Licenses issued by the Department under 22 M.R.S.A. § 2499 must be displayed, renewed and in every other way treated the same as licenses issued under this chapter on the basis of inspection by the Department.

3.1.B.8. Pursuant to 22 M.R.S.A. § 2499, the certification of municipally employed sanitarians shall be in accordance with standards set by the Department and shall be for a period of 3 years.

3.1.B.9. The eating establishment inspection delegation shall be reviewed by the Department every three years for staff competency, enforcement/compliance status, inspection practices, and routine reporting to the Department.

3.2. FOOD OUTBREAK PROTOCOLS. In the event of food borne disease outbreaks, upon learning of same, the delegated municipalities shall immediately contact the State of Maine, Bureau of Health. Authority for this requirement is contained in Rules for the Control of Notifiable Conditions, 10-144 CMR Ch. 258 which governs the reporting of certain diseases, clusters of unusual cases of a disease or outbreaks of a disease, epidemics, and extreme public health emergencies.

4.1.A. License required:

4.1.A.1. No person, corporation, firm or co-partnership may conduct, control, manage or operate, for compensation, directly or indirectly, any eating establishment, eating and lodging place, lodging place, recreational camp, campground, or recreational vehicle park unless the establishment is licensed by the Department. Licenses issued must be displayed in a place readily visible to customers or other persons using a licensed establishment.

SECTION 4 LICENSING PROCEDURES

4.1. LICENSES

TABLE 1 FEE SCHEDULE

ESTABLISHMENT TYPE	Base Fee	Add On Fee	Maximum Fee
Eating Place	\$45.00	3.00 per seat	\$150
Eating and Lodging Place	\$45.00	3.00 per seat; 2.00 per room	\$150
Mobile Eating Place	\$60.00	None	\$150
Vending Machine	\$45.00	None	\$150
Eating Place/Vend Mach	\$45.00	\$3.00 per seat	\$150
Catering Establishment	\$75.00	None	\$150
Temporary Food Service	\$45.00	None	\$150
Vending Machine Commissary	\$75.00	None	\$150
Lodging Place	\$45.00	\$2.00 per room	\$150
Bed & Breakfast	\$45.00	\$2.00 per room	\$150
Cottages	\$45.00	\$3.00 per cottage	\$150
Campground	\$55.00	\$100 per site/cabin \$3.00 per cottage	\$150
Temporary Campground	\$125.00	None	\$150
Agricultural Fair	\$125.00	None	\$150
Compressed Air	\$10.00	None	\$150
Eating Place and Caterer	\$45.00	\$3.00 per seat	150
Bottle Club	\$45.00	\$3.00 per seat	\$150
Jails	\$50.00	None	\$150
School Feed Satellite	\$100.00	None	\$150
Mass Gathering	\$100.00- \$750.00	None	\$750
Youth Camp:			
Residential Youth	\$90.00		\$150
Day Camp or Trip & Travel	\$45.00		\$150
Soup Kitchens	\$50.00	None	\$150
Tattoo, and/or Body Piercing	\$50.00- \$75.00		\$50-\$75
Micropigmentation	\$50.00	None	\$50
Electrology	\$50.00	None	\$50
Retail Tobacco	\$50.00	None	\$50
School Feeding	\$100.00	None	\$150
School Feed and Cater	\$100.00	None	\$150
Vending Machine Location	\$5.00	None	\$150
Senior Citizen Meal Satellite	\$30.00	None	\$150
Takeout Eating Place	\$75.00		\$150
Senior Citizen Meal Commissary	\$40.00	None	\$150
Sporting Camp or other non-youth Recreational Camp	\$75.00		\$150

MISCELLANEOUS FEES PER ESTABLISHMENT

Fee for delegated municipalities	\$60.00	NOTE: Pursuant to Title 22 M.R.S.A. § 2501, Nonprofit organizations including, but not limited to, 4-H Clubs, scouts and agricultural societies shall be exempt from department rules and regulations relating to dispensing foods and nonalcoholic beverages at not more than 12 public events or meals within one calendar year. For the purposes of these rules, 12 public events are interpreted to mean monthly, but in no case more than 12 events per year. In those instances, the establishment shall be licensed as provided in these rules.
Reprint license	\$10.00	
Late renewal	\$25.00	
Non profit /courtesy inspection	\$15.00	
Holding fee (e.g., late water analyses)	\$10.00	
Additional inspection (beyond 3)	\$35.00	
Application submitted within 30 days of license issue (i.e., applicant's request)	\$25.00	

4.1.A.3. A Lodging license is required for any person or entity which rents out four or more rooms or cottages.

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4.1.B. Any person, corporation, firm or co-partnership desiring a license shall submit satisfactory evidence of his, her or its ability to comply with the minimum standards of these rules which may include documenting the adequacy of any private wastewater disposal system and/or the quality of the drinking water.

4.1.C. Each application for, or for renewal of an annual license to operate an eating establishment, eating and lodging place, lodging place, campground, or recreational camp shall be accompanied by a fee, appropriate to the size of the establishment, not to exceed \$150. Table 1 provides a schedule for these fees.

4.1.C.1. Application submittal. Each request for a license shall be submitted on an application designed for that purpose. Each license application shall be accompanied by the proper fee. Applications shall be submitted at least 30 days in advance of opening.

4.1.C.2. No such fee may be refunded. Should the applicant make an overpayment, the excess payment shall be applied to the next year's license fee. No license may be assignable or transferable. The Department may assign multiple licenses for establishments with multiple functions, such as a hotel and a restaurant in that hotel.

4.1.C.3. License fees established herein provide for the license, two (2) routine and/or preoperational inspections and one (1) follow-up inspection. When additional inspections are required to determine an applicant's eligibility for licensure, the Department may charge an additional \$35 fee to cover the costs of each additional inspection or visit. Failure to pay such charges within 30 days of the billing date shall constitute grounds for revocation of the license.

4.1.D. The specific annual license fees are shown in Table 1, Fee Schedule.

4.1.E. The fee for eating establishments in municipalities that have received a valid delegation is a flat fee of \$60.00 regardless of the number of seats. This fee shall apply only to those eating establishments which the municipality inspects for conformance with these rules or equivalent municipal rules or ordinances. All other establishments, such as lodging, campgrounds, etc., must pay the full fee as listed in the above Table 1.

4.2 ISSUANCE OF LICENSES

4.2.A. New licenses: When any applicant is found, based upon an inspection by the Department or by municipal inspection, not in compliance with the requirements of departmental regulations the Department may refuse issuance of the initial (first-time) license, but shall issue a conditional license for up to 90 days, except when

conditions are found which present a serious danger to the health and safety of the public. An example of such is the presence of any critical violation found during a pre-operational inspection. Failure by the conditional licensee to meet the conditions specified by the Department shall permit the Department to void the license. Should the establishment continue to operate without a valid license, the penalties set forth in Section 4.4, Penalties, shall be administered.

4.2.A.1 In order to determine the suitability of the applicant for licensing, in conformity with the provisions of the statutes of the State of Maine, and rules promulgated hereunder, each applicant shall provide to the Department, or to any properly delegated municipality, such information as the Department (or municipality) may require. Such information may include but is not limited to the following: (1) a floor plan for review of newly constructed or extensively renovated establishments; (2) a site plan for review of newly constructed or expanded campground operations; (3) written approval statements relative to plumbing, water supply, waste disposal, and compliance with state and/or municipal codes, (4) a copy of the current lease, and (5) any transfer agreements for new ownership.

4.2.B. Renewal of licenses: The Department shall, within 30 days following receipt of application, and the prescribed fee, issue an annual license to operate any eating establishment, eating and lodging place, lodging place, youth camp, sporting camp, or camping area, which is found to comply with the rules and regulations of the Department. If any such establishment is not in compliance, the Department may apply conditions to such renewal, dependant upon the violations and how long they have been present.

4.2.B.1 All establishment licenses shall be renewed annually (except for Micropigmentation Practitioner) upon payment of a fee, and compliance with Maine statutes, rules and/or regulations thereunder. No license granted as such will be transferable or assignable.

4.2.B.2. The Department shall charge a \$10.00 fee for each reprint license, such as those with lost licenses, name changes, or multiple locations.

4.2.B.3. Any operating establishment applying for a renewal within the 30 day period as specified in section 4.1.C.1. shall be charged a fee of \$25.00 in addition to the annual license fee. The Department has the prerogative to seek additional fines as authorized by statute and these rules, should the establishment continue operation without renewal of the license(s).

4.2.B.4. For establishments licensed by the Department in a delegated community, the Department may charge a \$60 fee for each state inspection.

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4.2.B.5. Unlicensed non-profit establishments requesting a courtesy inspection may be charged a \$15 fee for each inspection.

4.2.C. The issuance of the license does not provide exemption from other state or local laws, ordinances or regulations, notwithstanding any other provision of law.

4.2.D. Licenses erroneously issued by the Department shall be deemed to have been issued in error and are void and shall be returned to the Department on demand in a notice delivered by hand or by certified mail to the licensee. For cause, the Department may revoke or suspend any license.

4.2.E. The Department may charge a \$10 fee for all licenses put on "hold" or otherwise set aside and not issued due to instances such as an incomplete application such as 1) a missing or late water test, 2) a previously failed inspection, 3) an uncorrected critical violations, and 4) similar circumstances.

4.3 SUSPENSION OR REVOCATION: APPEALS

4.3.A. When the Department believes a license should be suspended or revoked, it shall file a complaint with the District Court in conformity with the Maine Administrative Procedure Act. A person aggrieved by the refusal of the Department to issue a license may request a hearing in conformity with the Maine Administrative Procedure Act.

4.3.B. Whenever, upon inspection, conditions are found which violate these rules, or which may be an immediate threat to the public health, safety or welfare, or endanger the life, health or safety of persons living in or attending any licensed establishment, the Department may request an emergency suspension of license by the District Court pursuant to Title 4, §184, and the court may grant suspension subject to reinstatement following a hearing before the court if cause is not shown.

4.3.C. Upon issuance of an order revoking or suspending a license under this section, the Department shall promptly request District Court to schedule an expedited hearing on the agency's complaint. Any order temporarily suspending or revoking a license expires within 30 days of issuance unless renewed by the court after such hearing as it may determine necessary.

4.4. PENALTIES

4.A. Any person, corporation, firm or co-partnership who shall operate any eating establishment, eating and lodging place, lodging place, youth camp, sporting camp, or camping area without first obtaining a license as required shall, upon conviction thereof, be punished by a fine of not

less than \$25 nor more than \$200 and upon 2nd or subsequent conviction, shall be punished by a fine of not less than \$100. Each day any such person, corporation, firm or co-partnership operates without obtaining a license, shall constitutes a separate offense. In the event of any violation of these rules or 22 M.R.S.A. §2491-2501, the Attorney General may seek to enjoin further violations thereof, in addition to any other remedy.

4.4.B All such fees are for the license, two licensure inspections and one follow-up inspection. When additional inspections are required to determine an applicant's eligibility for licensure, the department may charge an additional \$20 fee to cover the costs of each additional inspection or visit. Failure to pay such charges within 30 days of the billing date shall constitute grounds for revocation of the license, unless an extension for a period not to exceed 60 days is granted in writing by the commissioner.

4.5 INSPECTIONS

4.5.A The Department and any duly designated officer or employee of the Department shall have the right, without an administrative inspection warrant, to enter upon and into the premises of any establishment licensed at any reasonable time in order to determine the state of compliance with any rules in force.

4.5.A.1. Such right of entry and inspection shall extend to any premises which the Department has reason to believe is being operated or maintained without a license, but no such entry and inspection of any premises may be made without the permission of the owner or person in charge unless a search warrant is obtained authorizing entry and inspection.

4.5.A.2. Inspections of a routine compliance nature shall be carried out at a frequency established based on risk as specified in section 4.8.

4.5.B. The inspector shall note any violations of these rules and leave a copy of the report at the establishment. Additionally, should the establishment fail the inspection, the inspector shall inform the person in charge of the administrative remedies stated within these rules, and leave a copy of such information with the report. A copy of the most recent inspection report shall be maintained at the establishment and the establishment shall post a notice advising patrons that a copy of the most recent inspection report is available for review by interested parties (sample attached).

4.5.C. Each violation of these rules is assigned a 1 to 5-point demerit value.

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4.5.C.1. A 5-point demerit value is considered the most serious violation. Critical violations are 4 or 5-point demerit violations.

4.5.C.2. Violations of 4 and 5-point demerit items shall be corrected as soon as possible but in any event within 10 days.

4.5.C.3. Violations of 1 and 2-point demerit items shall be corrected before the next routine inspection.

4.5.C.4. Establishments which receive more than three, critical item violations or risk factor violations or ten or more non-critical item violations shall be asked to close immediately and be scheduled for a follow-up inspection prior to reopening. Failure to satisfactorily correct these violations before the follow-up inspection may result in any or all of the following action by the Department

4.5.C.4.a. Release of information on the results of the inspection of to the news media.

4.5.C.4.b. Start of license revocation proceedings in District Court.

4.5.C.4.c. Refusal to renew the license.

4.5.D INSPECTION FAILURE. A failed inspection shall be deemed by any of the following:

4.5.D.1. Not achieving a score of 80 or higher.

4.5.D.2. Receiving more than 3 critical violations (4 and 5 point items).

4.5.D.2. Receiving more than 10 non-critical item violations 4.5.D.3. Operating while serving drinking water that is deemed not potable.

4.6 EXAMINATION AND CONDEMNATION OF FOOD

4.6.A. Food may be examined or sampled by the Department as often as necessary for enforcement of the rules. The Department may, upon written notice to the owner or person in charge, specifying with particularity the reasons thereof, place a hold order on any food that it believes is in violation of any section of the rules. The Department shall tag, label, or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served, or moved from the establishment. The Department shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed in writing within 10 days and that if no hearing is requested the food shall be destroyed. If a request for

hearing is received, the hearing shall be held within 20 days after receipt of the request. On the basis of evidence produced at the hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this ordinance.

4.7 PROCEDURE WHEN INFECTION IS SUSPECTED

4.7.A. When the Department has reasonable cause to suspect possible disease transmission by an employee of a food service establishment, it may secure a morbidity history of the suspected employee or make any other investigation as indicated and shall take appropriate action. The Department may require any or all of the following measures

4.7.A.1. The immediate exclusion of the employee from employment in food service establishments;

4.7.A.2. Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;

4.7.A.. Adequate medical and laboratory examination of the employee and of other employees and of his and their body discharges.

4.8. CATEGORIES OF RISK

4.8.A. Categories of risk shall be low, medium, or high. Risk based assessment categories will be assigned at yearly intervals and posted for public notification.

4.8.B. Risk categories

4.8.B.1. High-risk establishment. A High-risk establishment is any eating or beverage service establishment that:

- (1) serves potentially hazardous foods that require extensive processing on the premises, including manual handling, cooling, reheating, or holding for service;
- (2) prepares foods several hours or days before service;
- (3) serves menu items that epidemiologic experience has demonstrated to be common vehicles of food-borne illness;
- (4) has a public swimming pool; and/or
- (5) obtains its drinking water from a surface water supply.
- (6) has a history of critical item violations, or risk factor violations and/or non-critical item violations or good retail

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practices violations that increase the risk of food borne disease.

4.8.B.2. Medium-risk establishment. A Medium-risk establishment is any eating or beverage service establishment that:

(1) serves potentially hazardous foods but with minimal holding between preparation and service; and/or

(2) serves foods, such as pizza, that require extensive handling followed by heat treatment.

4.8.B.3. Low-risk establishment. A Low-risk establishment means an eating or beverage service establishment that is not a high-risk or medium-risk establishment.

SECTION 5 COMPLIANCE AND ENFORCEMENT PROTOCOLS

5.1 The goal of this enforcement protocol is to establish an effective system for initiating enforcement against violators to accomplish the following:

5.1.A. to protect the public health and promote the public welfare by regulating the safety and sanitation of all licensed eating and lodging establishments;

5.1.B. to enable the Eating and Lodging Program to measure the effectiveness of its enforcement efforts; and,

5.1.C. to foster compliance, continued compliance, and deterrence of non-compliance.

5.2. Identification of Violations for Enforcement Action

5.2.A. The identification of a violation is the first step in the enforcement process. The licensing and inspection sections of the Department shall be responsible for identification of violations, and attempts to resolve the violations prior to referral of the violations for administrative enforcement action.

5.2.B. The following steps may be used to discover a violation: 1.) By internal review of laboratory analysis or inspection reports, 2.) By on-site inspection or investigation, 3.) By complaint or referral through other agencies, and 4.) By epidemiological studies.

5.3. RISK ASSESSMENT AND ANALYSIS

When the Eating and Lodging Program staff identifies a violation, an assessment of the likely impact upon public health will occur. Some factors to be considered are listed below and are further delineated.

5.3.A. Degree of Risk- The seriousness of the violation shall be determined in prioritizing violations for an enforcement action. The seriousness of the violation shall be determined by the actual risk to health that the violation poses.

5.3.B. History of Non-Compliance- It is important to assess the establishment's violation history in determining an appropriate course of action. The extent of historical review will be by establishment and violation specific. Department staff may also take into consideration whether the establishment has undergone recent changes to its facilities when determining an appropriate course of action and citing violations for a formal enforcement action.

5.3.C. Duration/Re-occurrence of the Violation- The duration that a violation persists without corrective action, and whether the violation recurs will also be factors in determining appropriate action and priority for enforcement.

5.3.D. Size of Population/Type of Population at Risk- The assessment of risk for this category will be proportionate to the population served. Larger populations will be assessed the greatest risk. However, in certain cases, priority enforcement action will focus on risk-sensitive smaller populations (e.g. elderly, children, or those with special medical needs)

5.3.E. Drinking Water or Wastewater System Integrity- A drinking water or wastewater's system integrity will be a factor in prioritizing a violation for enforcement action. Any system needing treatment, replacement, or otherwise found to be inadequate may be given consideration for enforcement action.

5.4 REFERRAL OF VIOLATION FOR ENFORCEMENT ACTION

5.4.A. When formal enforcement action is determined to be necessary for the resolution of a violation, the establishment shall be referred for enforcement action. The following criteria establish the steps for immediate referral of an establishment for possible enforcement action.

1. Any critical violation(s).
2. Any violation(s) which pose an Imminent Health Hazard.
3. Any uncorrected violations which have not been corrected within one year.
4. Any violation identified as the result of a disease or food-borne outbreak.
5. Any uncorrected violation(s) after the Program has exhausted all informal means of inducing compliance.

SECTION 6 FINES AND PENALTIES

6.1. AUTHORIZATION

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Pursuant to 22 M.R.S.A. § 2498 the Department is authorized to impose one or more of the following sanctions when a violation of this chapter, or rules contained therein, occurs and the Department determines that a sanction is necessary and appropriate to ensure compliance with state licensing rules or to protect the public health.

6.2. UNCORRECTED VIOLATIONS

6.2.A. The Department may impose penalties for violations of this chapter, or the respective rules enacted, on any eating establishment, lodging place, youth camp, sporting camp, or camping area. The penalties may not be greater than \$50 for each violation. Each day that the violation remains uncorrected may be counted as a separate offense. As authorized by statute, penalties may be imposed for each violation of the rules.

6.2.B. The Department may direct any of its licensed establishments to correct any violations in a manner and within a time frame that the Department determines is appropriate to ensure compliance with state rules or to protect the public health. Failure to correct violations within the time frames constitutes a separate finable violation.

6.2.C. Any person, corporation, firm or co-partnership, or other legal entity that operates any eating establishment, lodging place, youth camp, sporting camp, or camping area without first obtaining a license as required by this chapter must be punished, upon conviction, by a fine of not less than \$10 nor more than \$100, and upon 2nd or subsequent conviction, must be punished by a fine of not less than \$100. Each day any such person, corporation, firm or co-partnership operates without obtaining a license constitutes a separate offense.

6.2.D. In the event of any violation of this section or any rule pursuant to this chapter, the Attorney General may seek to enjoin a further violation, in addition to any other remedy.

6.3. ENFORCEMENT AND APPEAL

6.3.A. The Department may impose any fine in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, providing the licensee the opportunity for an administrative hearing.

6.3.B. Licensees that are fined pursuant to this chapter are required to pay the Department the amount of the penalties. If a licensee has not paid any collectible fines by the time of its license renewal, the Department may collect such fines by requiring their payment prior to the processing of any license renewal application. An appeal of the Department's decision to fine a licensee stays the collection of any fine. Interest must accrue on fines at a

rate described in Title 14, section 1602 prior to the completion of any appeal. After the completion of any appeal process or after any appeal period has passed, interest must accrue pursuant to Title 14, section 1602-A.

Basis Statement: These rules endeavor to protect the health of the people of Maine and its visitors by providing specific compliance and enforcement standards to the establishments licensed by the Division of Health Engineering.

Statutory Authority:

22 M.R.S.A. §2491 to 2501
22 M.R.S.A. §1604
22 M.R.S.A. §1681 to 1684
32 M.R.S.A. §1221 to 1243
32 M.R.S.A. § 4201 to 4301
32 M.R.S.A. §4311 to 4317
32 M.R.S.A. §4321 to 4329

EFFECTIVE DATE: March 1, 1979

AMENDED: November 4, 1981
October 1, 1982 - Section 14 (added)
May 15, 1983 - Section 2 and Section 4
October 17, 1983 - Section 7
June 27, 1984 - Section 12 (J)
January 1, 1985 - Section 14
October 28, 1985 - Section 14
January 1, 1987
January 1, 1989
August 1, 2004

EFFECTIVE DATE (ELECTRONIC CONVERSION): May 5, 1996

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APPENDIX A
SUMMARY OF DRINKING WATER REGULATIONS

The State of Maine "Rules Relating to Drinking Water" (10-144 CMR 231) are administered as a result of the Federal Safe Drinking Water Act Amendments of 1996. These rules allow the State of Maine Drinking Water Program to regulate all public water systems in the State of Maine. A full copy of the Rules Relating to Drinking Water are available at www.medwp.com or by calling the Maine Drinking Water Program at 287-2070.

A. DEFINITIONS: Section (2) of Maine's "Rules Relating to Drinking Water," along with the Drinking Water Program's Field Services Policy, defines the following terms:

PUBLIC WATER SYSTEM: Any publicly or privately owned system of pipes, ...structures and facilities through which water is obtained for or sold, furnished, or distributed to the public for human consumption, if such a system ... regularly serves an average of at least 25 individuals daily for at least sixty (60) days out of the year....

The following list is a summary of the policy used to determine if a facility qualifies as a public water system, assuming that each facility is in operation for at least 60 days per year:

- a. **Restaurant:** A restaurant is a public water system if there are at least 10 seats;
- b. **Hotel/Motel/Bed & Breakfast:** A hotel, motel, or bed & breakfast is a public water system if there are at least 13 rooms;
- c. **Campground/Cottages:** Campgrounds and cottages qualify as public water systems if there are least 10 sites or units;
- d. **Take-Out Establishments:** A take-out establishment is a public water system where water is provided to the public in cups, drinking fountain, mixed beverages (fountain drinks), ice or any other activity involving human consumption;
- e. **Day Use Parks, State Parks, Beaches, and Picnic Areas:** These facilities are considered public water systems if they have at least 13 parking spaces;
- f. **Boys and Girls, Scout, Church, and Sporting Camps:** These camps are considered public water systems if they serve at least 25 campers and staff; and
- g. **Miscellaneous Facilities:** All other facilities making water available to the public and serving at least 25 persons are considered a public water system.

B. TREATMENT AND TESTING REQUIREMENTS: State and federal safe drinking water rules and regulations, along with Drinking Water Program policies depend upon the following factors: population/type of public water system; type of drinking water source; degree of past compliance with rules and regulations; proximity of source to possible contaminants; type of treatment installed; and

any other factors affecting the drinking water quality for public consumers. Any treatment or testing questions pertaining to specific public water systems should be directed to the Drinking Water Program at (207) 287-2070.

APPENDIX B
SUBSURFACE WASTEWATER DISPOSAL LAW
30 M.R.S.A. §3221

SUBSURFACE WASTEWATER DISPOSAL SYSTEM means any system for disposing of wastes or wastewaters on or beneath the surface of the earth, including, but not limited to, septic tanks, drainage fields, grandfathered cesspools, holding tanks or any other fixture, mechanism or apparatus used for those purposes, but does not include any discharge system licensed under Title 38, §414, surface wastewater treatment system or any municipal or quasi-municipal sewer or waste water treatment system.

No person may erect a structure that requires a subsurface wastewater disposal system until documentation has been provided to the municipal officers that the disposal system can be constructed in compliance with regulations promulgated under Title 22, §42, and this section.

For purposes of this section, "expansion" means the enlargement or change in use of a structure using an existing subsurface wastewater disposal system that brings the total structure into a classification that requires larger subsurface wastewater disposal system components under regulations promulgated by Title 22, §42, and this section.

No person may expand a structure using a subsurface wastewater disposal system until documentation has been provided to the municipal officers and a notice of the documentation recorded in the appropriate registry of deeds that, in the event of a future malfunction of the system, the disposal system can be replaced and enlarged to comply with the rules promulgated under Title 22, section 42, and ordinances promulgated under this section. No requirements of these rules and ordinances may be waived for an expanded structure. The Department shall prescribe the form of the notice to be recorded in the registry of deeds. The notice shall include a site plan showing the exact location of the replacement system, the approximate location of lot lines and the exact location of existing wells serving the lot on which the replacement system will be located and those located on abutting lots. Copies of the notice shall be sent by certified mail, return receipt requested, to all owners of abutting lots. The person seeking to expand a structure shall be responsible for providing that notice. Following recording of notice as provided in this subsection, it is a

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violation of this section for any abutting landowner to install a well on his property in a location which would prevent the installation of the replacement septic system. The owner of the lot on which the replacement system will be installed may not erect any structure on the proposed site of the replacement system or conduct any other activity which would prevent the use of the designated site for the replacement system. Any person who violates this section shall be penalized in accordance with section 4966. The municipality or the Department may seek to enjoin violations of this section. In the prosecution of a violation by a municipality, the court may award reasonable attorneys' fees to a municipality if that municipality is the prevailing party, unless the court finds that special circumstances make the award of these fees unjust.

APPENDIX C

AMERICAN NATIONAL STANDARD A117.1 – 1998

ICC/ANSI A117.1/1998 Standard for Accessible & Usable
Buildings & Facilities.

Note: For a copy of this standard, contact the International Code Council, <http://www.iccsafe.org/e/category.html>, or email, webmaster@iccsafe.org

APPENDIX D

**Excerpts from Maine Law governing the licensing and
inspection of Establishments Licensed by the Division
of Health Engineering**

22 § 2492. License required

No person, corporation, firm or copartnership may conduct, control, manage or operate, for compensation, directly or indirectly, any eating establishment, eating and lodging place, lodging place, recreational camp or camping area, unless the same shall be licensed by the Department. Licenses issued must be displayed in a place readily visible to customers or other persons using a licensed establishment.

22 § 2493. Applicant

Any person, corporation, firm or copartnership desiring a license shall submit satisfactory evidence of his, her or its ability to comply with the minimum standards of this chapter and all regulations adopted thereunder.

22 § 2496. Rules and regulations

The Department is authorized and empowered to make and enforce all necessary rules and regulations for the administration of this chapter, and may rescind or modify such rules and regulations from time to time as may be in the public interest, insofar as such action is not in conflict with any of the provisions of this chapter.

22 § 2498. Fines and penalties

1. Authorization. The Department is authorized to impose one or more of the following sanctions when a violation of this chapter, or rules enacted pursuant to this chapter,

occurs and the Department determines that a sanction is necessary and appropriate to ensure compliance with state licensing rules or to protect the public health.

A. The Department may impose penalties for violations of this chapter, or the rules enacted pursuant to this chapter, on any eating establishment, eating and lodging place, lodging place, recreational camp or camping area. The penalties may not be greater than \$50 for each violation. Each day that the violation remains uncorrected may be counted as a separate offense. Penalties may be imposed for each violation of the rules.

B. The Department may direct an eating establishment, eating and lodging place, lodging place, recreational camp or camping area to correct any violations in a manner and within a time frame that the Department determines is appropriate to ensure compliance with state rules or to protect the public health. Failure to correct violations within the time frames constitutes a separate finable violation.

C. Any person, corporation, firm or copartnership that operates any eating establishment, eating and lodging place, lodging place, recreational camp or camping area without first obtaining a license as required by this chapter must be punished, upon conviction, by a fine of not less than \$10 nor more than \$100, and upon 2nd or subsequent conviction, must be punished by a fine of not less than \$100. Each day any such person, corporation, firm or copartnership operates without obtaining a license constitutes a separate offense.

D. In the event of any violation of this section or any rule pursuant to this chapter, the Attorney General may seek to enjoin a further violation, in addition to any other remedy.

2. Schedule of penalties. The department shall establish a schedule of penalties according to the nature and duration of the violation.

3. Enforcement and appeal. Enforcement and appeal of this section is as follows.

A. The Department may impose any fine in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, providing the licensee the opportunity for an administrative hearing.

B. Licensees that are fined pursuant to this chapter are required to pay the Department the amount of the penalties. If a licensee has not paid any collectible fines by the time of its license renewal, the Department may collect such fines by requiring their payment prior to the processing of any license renewal application. An appeal of the Department's decision to fine a licensee stays the collection of any fine. Interest must accrue on fines at a rate described in Title 14, section 1602 prior to the completion of any appeal. After the completion of any appeal process or after any appeal period has passed, interest must accrue pursuant to Title 14, section 1602-A.

22 § 2500. Suspension or revocation; appeals

When the Department believes a license should be suspended or revoked, it shall file a complaint with the Administrative Court in conformity with the Maine Administrative Procedure Act. A person aggrieved by the

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refusal of the Department to issue a license may request a hearing in conformity with the Maine Administrative Procedure Act.

Whenever, upon inspection, conditions are found which violate this chapter or regulations adopted thereunder, or which may endanger the life, health or safety of persons living in or attending any licensed establishment under this chapter, the Department may request an emergency suspension of license of the Administrative Court pursuant to Title 4, section 1153, and the court may grant suspension subject to reinstatement following a hearing before the court if cause is not shown.

**Excerpt from Title 5, Chapter 375, Administrative
Procedures Act**

§10003. Right to Hearing

1. Opportunity for hearing. Subject to the provisions of section 10004, an agency may not amend or modify any license unless it has afforded the licensee an opportunity for hearing in conformity with subchapter IV, nor may it refuse to renew any license unless it has afforded the licensee either an opportunity for an agency hearing in conformity with subchapter IV or an opportunity for a hearing in the District Court. In any such proceeding determined by the agency to involve a substantial public interest, an opportunity for public comment and participation must also be given by public notice in conformity with subchapter IV. [1999, c. 547, Pt. B, §17 (amd); §80 (aff).]

2. Proceeding. In any proceeding involving a proposed modification or amendment of a license which was the subject of an earlier hearing, the agency shall give notice thereof to all parties to the earlier proceeding and in any other manner required by section 9052, and may reopen the earlier proceeding for consideration of the proposed amendment or modification. [1977, c. 551, §3 (new).]

§10004. Action without hearing

Notwithstanding the provisions of sections 10003 and 10051, an agency may revoke, suspend or refuse to renew any license without proceedings in conformity with subchapters IV or VI, when: [1977, c. 694, § 38 (rpr).]

1. Judicial action. The decision to take that action rests solely upon a finding or conviction in court of any violation which by statute is expressly made grounds for revocation; [1977, c. 694, § 38 (new).]

2. Reciprocal license. The Maine license has been issued upon the basis of a reciprocal agreement with another government, and the Maine action is based upon evidence, in the form of a certified copy, that the authority issuing the license which provided the basis for reciprocal licensing in Maine has revoked or suspended their license; [1977, c. 694, § 38 (new).]

3. Health or safety hazard. The health or physical safety of a person or the continued well-being of a significant natural resource is in immediate jeopardy at the time of the agency's action, and acting in accordance with subchapter IV or VI would fail to adequately respond to a known risk, provided that the revocation, suspension or refusal to renew shall not continue for more than 30 days; [1977, c. 694, § 38 (new).]

4. Certified inspector. The action is based solely upon the physical test, examination or inspection by a state-certified inspector of any product, animal, material or equipment, from which the agency concludes that action in accordance with subchapter IV or VI would not adequately protect public health or safety, provided that action under this subsection shall not be effective for a period of more than 30 days. [1977, c. 694, § 38 (new).]

5. Rules of sportsmanship. In the course of any professional sporting event directly regulated by an agency, the agency determines that a licensee has: [1977, c. 694, § 38 (new).]

**This eating establishment is inspected by
the State of Maine, Bureau of Health.**



**A copy of the most recent food safety
inspection report is available here for
review upon request.**

**Eating and Lodging Program
Division of Health Engineering
Bureau of Health, Department of Health and Human Services
11 State House Station
Augusta, ME 04333-0011**

<http://www.maine.gov/dhs/eng/el>